

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 12-04967-RGK (AGRx)	Date	July 6, 2012
Title	GMAC MORTGAGE LLC v. FRANK ORTEGA et al.		

Present: The
Honorable

R. GARY KLAUSNER, U.S. DISTRICT JUDGE

Sharon L. Williams

Not Reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings: (IN CHAMBERS) ORDER REMANDING CIVIL ACTION TO
SUPERIOR COURT**

On June 6, 2012, Defendant Frank Ortega ("Defendant"), representing himself in pro se, removed this action from the Los Angeles County Superior Court of California to the United States District Court, Central District of California.

Removal jurisdiction is governed by statute. *See* 28 U.S.C. §§ 1441, et seq. The Ninth Circuit has held unequivocally that the removal statute is construed strictly against removal. *Ethridge v. Harbor House Rest.*, 861 F.2d 1389, 1393 (9th Cir. 1988). The strong presumption against removal jurisdiction means that "the defendant always has the burden of establishing that removal is proper." *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (*citing Nishimoto v. Federman-Bachrach & Assocs.*, 903 F.2d 709, 712 n.3 (9th Cir. 1990)); *see also In re Ford Motor Co./Citibank (South Dakota), N.A.*, 264 F.3d 952, 957 (9th Cir. 2001) ("The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court.").

Defendant's Notice of Removal does not establish a clear basis for removal and the Court finds that jurisdiction is not proper under either 28 U.S.C. § 1331 or § 1332. The Court's careful review of the documents from Superior court shows that GMAC Mortgage ("Plaintiff") raised no federal question in its Complaint. Plaintiff's Complaint is a discrete action for unlawful detainer, an action which exclusively invokes authority pursuant to California statute. The Complaint does not set forth any claims arising under the U.S. Constitution, treaties, or laws of the United States for which the Court would have "original jurisdiction." 28 U.S.C. § 1441(b). Defendant cannot confer jurisdiction upon the Court by attempting to attach a federal question to his Notice of Removal. Accordingly, Defendant's removal may not be sustained on the basis of federal question jurisdiction.

The Complaint for unlawful detainer indicates on its face that the amount in controversy does not exceed \$10,000. Federal Jurisdiction based on complete diversity requires that all parties to the

action are completely diverse in citizenship, and that the amount in controversy exceeds \$75,000. Since the unlawful detainer action does not meet the jurisdictional threshold, Defendant's removal based on diversity jurisdiction is also improper.

For the foregoing reasons, the above-entitled case is ordered **REMANDED** to the Superior Court for all further proceedings for lack of subject matter jurisdiction.

IT IS SO ORDERED.

Initials of Preparer

:

